

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 QUOC H. NGUYEN,

No. 2:24-cv-02239-DJC-CKD (PS)

12 Plaintiff,

13 ORDER

14 v.

15 FRANK,

16 Defendant.

17  
18 Plaintiff Quoc H. Nguyen proceeds without counsel and seeks to proceed in forma  
19 pauperis. This matter is before the undersigned pursuant to Local Rule 302(c)(21). See 28 U.S.C.  
20 § 636(b)(1). Plaintiff has initiated this action with a civil complaint and an application to proceed  
21 in forma pauperis (“IFP”). (ECF Nos. 1, 2.)

22 In order to commence a civil action, along with the complaint, a plaintiff must either pay  
23 the \$350.00 filing fee and the \$55.00 administrative fee or file an application requesting leave to  
24 proceed IFP. See 28 U.S.C. §§ 1914(a), 1915(a). The court may authorize the commencement of  
25 an action “without prepayment of fees” by an individual who submits an affidavit evidencing an  
26 inability to pay such fees. 28 U.S.C. § 1915(a). “An affidavit in support of an IFP application is  
27 sufficient where it alleges that the affiant cannot pay the court costs and still afford the necessities  
28 of life.” Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015) (citing Adkins v. E.I. Du

1      Pont de Nemours & Co., Inc., 335 U.S. 331, 339 (1948)); see also United States v. McQuade, 647  
2      F.2d 938, 940 (9th Cir. 1981) (affidavit must “state the facts as to affiant’s poverty with some  
3      particularity, definiteness and certainty” (internal quotation omitted)).

4      Plaintiff’s affidavit does not adequately demonstrate plaintiff was unable to pay the court  
5      costs and still afford the necessities of life when plaintiff filed this suit. Plaintiff checked the  
6      boxes indicating plaintiff received income from business, profession, or other self-employment  
7      and from other sources within the past 12 months. (ECF No. 2 at 1.) Plaintiff did not, however,  
8      describe each source of money and state the amount received and the amount expected to be  
9      received in the future, as required by the form application. (See id.) Plaintiff also did not list any  
10     regular monthly expenses in any specified amounts. (Id. at 2.) While § 1915(a) does not require a  
11     litigant to demonstrate “absolute destitution,” Adkins, 335 U.S. at 339, the applicant must  
12     nonetheless show inability to pay the fees. 28 U.S.C. § 1915(a). Plaintiff has not done so.

13     Because plaintiff does not make an adequate showing of indigency for in forma pauperis  
14     status, plaintiff will be granted 30 days in which to submit the filing fee and administrative fee to  
15     the Clerk of the Court. In the alternative, plaintiff may submit a renewed application to proceed  
16     IFP. Any renewed affidavit must contain sufficient information to demonstrate plaintiff could not,  
17     at the time of filing suit, pay the court costs and still afford the necessities of life. Plaintiff is  
18     cautioned that failure to pay the court costs or file a renewed affidavit will result in a  
19     recommendation that the application to proceed in forma pauperis be denied and the present  
20     action be dismissed.

21     Accordingly, IT IS HEREBY ORDERED that, within thirty (30) days from the date of  
22     this order, plaintiff shall submit the appropriate filing fee and administrative fee or a fully  
23     completed and signed affidavit to proceed without prepayment of fees.

24     Dated: September 13, 2024

*Carolyn K. Delaney*  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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28     <sup>8</sup>  
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